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SUPREME COURT OF THE UNITED STATES

BRIAN V. HUNTER AND JEFFERY JORDAN
v. JAMES V. BRYANT, JR.

ON PETITION FOR WRIT OF CERTIORARI TO THE UNITED
STATES COURT OF APPEALS FOR THE NINTH CIRCUIT

No. 90-1440. Decided December 16, 1991

PER CURIAM.

On May 3, 1985, respondent James V. Bryant delivered two photocopies of a handwritten letter to two administrative offices at the University of Southern California. The rambling letter referred to a plot to assassinate President Ronald Reagan by "Mr Image," who was described as "Communist white men within the National Council of Churches." The letter stated that "Mr Image wants to murder President Reagan on his up and coming trip to Germany," that "Mr Image had conspired with a large number of U. S. officials in the plot to murder President Reagan" and others, and that "Mr Image (NCC) still plans on murdering the President on his trip to Germany in May, 1985." See *Bryant v. United States Treasury Department, Secret Service*, 903 F. 2d 717, 724-727 (CA9 1990) (Bryant's letter). President Reagan was traveling in Germany at the time.

A campus police sergeant telephoned the Secret Service, and agent Brian Hunter responded to the call. After reading the letter, agent Hunter interviewed University employees. One identified James Bryant as the man who had delivered the letter and reported that Bryant had "told her '[h]e should have been assassinated in Bonn.'" Another employee said that the man who delivered the letter made statements about " 'bloody coups' " and " 'assassination,' " and said something about " 'across the throat' " while moving his hand horizontally across his throat to simulate a cutting action. *Id.*, at 718-719.

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Hunter and another Secret Service agent, Jeffrey Jordan, then visited a local address that appeared on the letter. Bryant came to the door and gave the agents permission to enter. He admitted writing and delivering the letter, but refused to identify "Mr. Image" and answered questions about "Mr. Image" in a rambling fashion. Bryant gave Hunter permission to search the apartment, and the agent found the original of the letter. While the search was underway, Jordan continued questioning Bryant, who refused to answer questions about his feelings toward the President or to state whether he intended to harm the President. *Id.*, at 719.

Hunter and Jordan arrested Bryant for making threats against the President, in violation of 18 U. S. C. § 871(a).¹ Bryant was arraigned and held without bond until May 17, 1985, when the criminal complaint was dismissed on the Government's motion.

Bryant subsequently sued agents Hunter and Jordan, the United States Department of the Treasury, and the Director of the Secret Service, seeking recovery under the Federal Tort Claims Act and alleging that the agents had violated his rights under the Fourth, Fifth, Sixth, and Fourteenth Amendments. See *Bivens v. Six Unknown Fed. Narcotics Agents*, 403 U. S. 388 (1971). The District Court dismissed all defendants other than agents Hunter and Jordan and all causes of action other than Bryant's Fourth Amendment claims for arrest without probable cause and

¹ 18 U. S. C. § 871(a) provides:

"Whoever knowingly and willfully deposits for conveyance in the mail or for a delivery from any post office or by any letter carrier any letter, paper, writing, print, missive, or document containing any threat to take the life of, to kidnap, or to inflict bodily harm upon the President of the United States, the President-elect, the Vice President or other officer next in the order of succession to the office of President of the United States, or the Vice President-elect, or knowingly and willfully otherwise makes any such threat against the President, President-elect, Vice President or other officer next in the order of succession to the office of President, or Vice President-elect, shall be fined not more than \$1,000 or imprisoned not more than five years, or both."

without a warrant. The court denied the agents' motion for summary judgment on qualified immunity grounds.

On appeal, a Ninth Circuit panel held that the agents were entitled to qualified immunity for arresting Bryant without a warrant because, at that time, the warrant requirement was not clearly established for situations in which the arrestee had consented to the agents' entry into a residence. 903 F. 2d, at 723-724.

However, the panel divided on the question of whether the agents were entitled to immunity on the claim that they had arrested Bryant without probable cause. The majority concluded that the agents had failed to sustain the burden of establishing qualified immunity because their reason for arresting Bryant — their belief that the "Mr. Image" plotting to kill the President in Bryant's letter could be a pseudonym for Bryant — was not the most reasonable reading of Bryant's letter:

"Even accepting the 'alter ego' theory that by warning what Mr. Image was going to do, Mr. Bryant was in fact communicating what he himself planned to do, the letter read in its entirety does not appear to make a threat against the president. Most of the letter does not even talk about President Reagan. A more reasonable interpretation of the letter might be that Bryant was trying to convince people of the danger Mr. Image and the conspiracy posed rather than that Bryant was speaking through Mr. Image." *Id.*, at 722 (emphasis added)

Our cases establish that qualified immunity shields agents Hunter and Jordan from suit for damages if "a reasonable officer could have believed [Bryant's arrest] to be lawful, in light of clearly established law and the information the [arresting] officers possessed." *Anderson v. Creighton*, 483 U. S. 635, 641 (1987). Even law enforcement officials who "reasonably but mistakenly conclude that probable cause is present" are entitled to immunity. *Ibid.* Moreover, because "the entitlement is an immunity from

suit rather than a mere defense to liability," *Mitchell v. Forsyth*, 472 U. S. 511, 526 (1985), we repeatedly have stressed the importance of resolving immunity questions at the earliest possible stage in litigation. See *Harlow v. Fitzgerald*, 457 U. S. 800, 818 (1982); *Davis v. Scherer*, 468 U. S. 183, 195 (1984); *Mitchell*, *supra*, at 526; *Malley v. Briggs*, 475 U. S. 335, 341 (1986); *Anderson*, *supra*, at 646, n. 6.

The decision of the Ninth Circuit ignores the import of these decisions. The Court of Appeals' confusion is evident from its statement that "[w]hether a reasonable officer could have believed he had probable cause is a question for the trier of fact, and summary judgment . . . based on lack of probable cause is proper only if there is only one reasonable conclusion a jury could reach." 903 F. 2d, at 721. This statement of law is wrong for two reasons. First, it routinely places the question of immunity in the hands of the jury. Immunity ordinarily should be decided by the court long before trial. See *Mitchell*, *supra*, at 527-529. Second, the court should ask whether the agents acted reasonably under settled law in the circumstances, not whether another reasonable, or more reasonable, interpretation of the events can be constructed five years after the fact.

Under settled law, Secret Service agents Hunter and Jordan are entitled to immunity if a reasonable officer could have believed that probable cause existed to arrest Bryant. Probable cause existed if "at the moment the arrest was made . . . the facts and circumstances within their knowledge and of which they had reasonably trustworthy information were sufficient to warrant a prudent man in believing" that Bryant had violated 18 U. S. C. § 871. *Beck v. Ohio*, 379 U. S. 89, 91 (1964).

When agents Hunter and Jordan arrested Bryant, they possessed trustworthy information that Bryant had written a letter containing references to an assassination scheme directed against the President, that Bryant was cognizant of the President's whereabouts, that Bryant had made an oral statement that "he should have been assassinated in Bonn," 903 F. 2d, at 719, and that Bryant refused to

answer questions about whether he intended to harm the President. On the basis of this information, a magistrate ordered Bryant to be held without bond.

These undisputed facts establish that the Secret Service agents are entitled to qualified immunity. Even if we assumed, *arguendo*, that they (and the magistrate) erred in concluding that probable cause existed to arrest Bryant, the agents nevertheless would be entitled to qualified immunity because their decision was reasonable, even if mistaken. *Anderson*, *supra*, at 641.

The qualified immunity standard "gives ample room for mistaken judgments" by protecting "all but the plainly incompetent or those who knowingly violate the law." *Malley*, *supra*, at 343, 341. This accommodation for reasonable error exists because "officials should not err always on the side of caution" because they fear being sued. *Davis*, *supra*, at 196. Our national experience has taught that this principle is nowhere more important than when the specter of Presidential assassination is raised.

The petition for a writ of certiorari is granted, the judgment of the Court of Appeals is reversed, and the case is remanded for further proceedings consistent with this opinion.

It is so ordered.

JUSTICE THOMAS took no part in the consideration or decision of this case.